

## FINDING OF NO SIGNIFICANT IMPACT

### BOUNDARY EXPANSION

#### WIND CAVE NATIONAL PARK

The National Park Service proposes to expand Wind Cave National Park by 5,675 acres (or 20 percent) by adding five tracts of land located in Custer County, South Dakota. The properties would be acquired from three different landowners, including two private owners and U.S. Bureau of Land Management (BLM). The proposal was evaluated in an Environmental Assessment (EA), which underwent a 60-day public comment period ending on June 6, 2002. As a result of concerns expressed during the public review period, the preferred alternative (Alternative B) has been slightly modified to address those concerns. Alternative B originally included 6,555 acres in six tracts, one of which is owned by the state of South Dakota (public school land). The preferred alternative now **excludes** the 880-acre public school land from the proposed boundary expansion.

The largest component of the boundary expansion is the 5,555 acres of private ranch land. Made up of the Milliron Ranch and the Casey Ranch Limited Partnerships tracts, these properties have one owner and are referred to herein as “the Casey property.” The land shares a nine-mile common boundary with Wind Cave National Park and is currently managed for cattle and a commercial bison herd. It includes the “keyhole” lands, which jut into the heart of the national park from the south. The owners of this property approached the National Park Service in October 2000, indicating their desire to sell the lands for inclusion in Wind Cave National Park. Thus, this property is being offered by a willing seller.

The second private land component, the Pearson tract, is 40 acres in size. It is located on high ground (Gobbler Knob) that overlooks the park and abuts the park’s southern boundary on one side. This property would only be acquired from a willing seller.

Two separate parcels managed by the U.S. Bureau of Land Management (BLM), totaling 80 acres, lie within the boundaries of the Casey property, and are also proposed for inclusion in the boundary expansion of Wind Cave National Park. This land represents the third and final component of the proposed boundary expansion, and would be acquired through administrative transfer. The BLM parcels are leased to the Casey family for grazing purposes, and are managed by the Casey’s in essentially the same manner as the their property. For purposes of the EA and this document, these parcels were considered simply as part of the Casey property.

## **PREFERRED ALTERNATIVE**

The proposed lands for the boundary expansion are an important component of the natural scenic landscape around Wind Cave National Park, and are a natural extension of the ridge and canyon topography within the park. The property encompasses the longest known cave (approximately 200 feet) in the Minnekahta geologic formation, which may also serve as an important bat roosting site for the Black Hills. Adding additional acreage to the park would provide prime habitat for elk, bison, and deer (increasing the rangeland of the park); could allow for the reintroduction of threatened and endangered species; would provide significant winter range for deer and elk not currently available in the park; and would protect known cultural resources including the Sanson buffalo jump, homestead buildings, and tipi rings on the Casey property (part of the Lakota, Arapaho, and Cheyenne Indian ethnographic landscape).

Including the Casey property within the boundaries of Wind Cave National Park would also allow for and facilitate fire management in the “key hole” region of the park. Fire management on all of the study area, especially the Casey property, would help reduce the risk of a catastrophic wildfire in and around the park. Existing limitations on applying fire management in this area of the park would be alleviated, and the topography of the Casey property could be used to the advantage of the fire management program, providing natural boundaries from which burns could be conducted more safely.

If not sold to the National Park Service, the Casey property could be subdivided for residential (e.g., ranchette) development. Such a change in land use has the potential to adversely affect, if not destroy, many resources such as important plant communities, habitat types, and cultural resources, including a documented buffalo jump. The buffalo jump would become only the second such resource in the entire National Park system, both of which would be within the boundaries of Wind Cave National Park. Subdivision of this property would likely result in the removal of fences, which would not prevent wild deer and elk from coming in contact with the land potentially affected by Chronic Wasting Disease (CWD).

The second private land component, the Pearson tract, is 40 acres in size. It is located on high ground (Gobbler Knob) that overlooks the park and adjoins it at the southern end. It is visible from most viewpoints on the main park road, and offers an uninterrupted extension of the visual landscape at the southern boundary of Wind Cave National Park. It also offers clear, unobstructed views of the park from the property. The Pearson tract is currently for sale, and if the National Park Service does not include the property within the boundaries of the park, it would likely be sold for residential development. If the parcel were developed into one or

more home sites, the potential exists for intrusion on an otherwise natural landscape that could be seen from many areas of the park, including the main park road.

The third component is comprised of two separate parcels managed by the BLM, and totals 80 acres. These parcels are situated within the Casey property, are leased to the Casey family for grazing purposes, and are managed by the Caseys in essentially the same manner as the rest of their property. For the purposes of the environmental assessment and this Finding of No Significant Impact, these parcels were considered simply as part of the Casey property.

Private lands would be acquired from the owners only if they are willing sellers. The Trust for Public Lands, a national, nonprofit organization that conserves land for parks, natural areas, and open space, has offered to assist the National Park Service in acquiring the private lands. An administrative transfer would be necessary to transfer the BLM lands to the National Park Service. There are no plans for building construction in the study area if acquired by the National Park Service. However, a trail system is proposed to increase hiking opportunities within Wind Cave National Park as well as installation of interpretive signs to highlight the buffalo jump, the historic homestead, and other resources, as appropriate. Improvements would be made to the fenceline, including double-fencing the portion of the Casey property potentially affected with CWD, and upgrading or replacing existing fences.

Ungulate exposure to Chronic Wasting Disease (CWD) was an impact topic discussed in the environmental assessment. The southern portion of the Casey property, which is separated by fences from the northern portion, was quarantined in 1998, after it was discovered that some deer and elk on the property were infected with CWD. Subsequent to destroying the potentially affected deer and elk, the South Dakota State Veterinarian lifted the quarantine. CWD is a fatal disease affecting members of the Cervidae family and is known to occur only in deer and elk. Very little is known about the source and mode of transmission of the disease. There is currently no method for live-testing elk, however, there has been some success in live-testing deer using tonsillar biopsy. The NPS would monitor deer and elk in and adjacent to the park and would cooperate with federal, state, and local agencies, and universities involved in research and management activities associated with the disease.

Due to comments received during the public comment period for the Wind Cave National Park boundary expansion study/environmental assessment, the preferred alternative has been modified slightly from that originally proposed in the environmental assessment (herein referred to as “the proposal”). The modification **excludes 880 acres of public school lands** from the boundary expansion, as a result of the following considerations:

- The input of concerned citizens and state agencies, including the Governor’s office, related to hunting access on the public school lands;

- Wildlife habitat is still protected as it is managed by the South Dakota Office of School and Public Lands;
- Eliminating these lands would not violate the Organic Act of 1916 (PL 64-235), as there would be no threat to the resources of Wind Cave National Park (see environmental consequences analysis for alternative A and C);
- The public school land is not developable land; and
- There would be a decrease in the impact that the boundary expansion would have on the area's tax base.

Impacts analyses have already been performed for inclusion and exclusion of the public school lands in the EA (alternative B, and alternatives A and C, respectively). Adverse impacts would not increase as a result of excluding the public school lands from the preferred alternative. There would still be no impairment of park resources or values under the new preferred alternative. The new preferred alternative also satisfies the environmentally preferred alternative criteria as discussed in the following section.

## **OTHER ALTERNATIVES CONSIDERED**

The environmental assessment (EA) for the boundary study analyzed the proposal (alternative B), a no-action alternative (alternative A), and an alternative that would have added only the Casey property to the boundary of Wind Cave National Park (alternative C). Under alternative A, existing management of the park would continue and the boundary would not be expanded. Wind Cave National Park would not be protected from the threat of surrounding land uses that could jeopardize resources and scenic vistas. Significant natural and cultural resources related to the park purpose that are located outside the present boundary would not be protected or interpreted.

Alternative B ("the proposal") would have expanded the boundary of Wind Cave National Park by adding approximately 6,555 acres in six tracts representing four landowners: the state of South Dakota (public school land), the Caseys, the Pearsons, and the BLM. This was identified as the preferred alternative, and the environmentally preferred alternative, in the EA.

Alternative C would have expanded the boundary of Wind Cave National Park by approximately 5,635 acres by adding the Casey property (5,555 acres) and the BLM parcels (80 acres). The 40-acre Pearson tract and the 880 acres of public school lands would not be included in the boundary expansion.

Alternatives A and C do not meet the project objectives of protecting the scenic resources of the park, habitat for area wildlife, and other special natural and cultural resources related to the

park that could be placed at risk if the lands were sold to a private entity. Alternative B, as described in the EA and as revised subsequently, best meets the project objectives of expanding Wind Cave National Park.

## **ENVIRONMENTALLY PREFERRED ALTERNATIVE**

The environmentally preferred alternative is determined by applying the criteria suggested in the National Environmental Policy Act of 1969 (NEPA), which is guided by the Council on Environmental Quality (CEQ). The CEQ provides direction that “[t]he environmentally preferable alternative is the alternative that would promote the national environmental policy as expressed in NEPA, section 101:

- fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
- assure for all generations safe, healthful, productive, and esthetically and culturally pleasing surroundings;
- attain the widest range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable and unintended consequences;
- preserve important historic, cultural and natural aspects of our national heritage and maintain, wherever possible, an environment that supports diversity and variety of individual choice;
- achieve a balance between population and resource use that would permit high standards of living and a wide sharing of life’s amenities; and
- enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

The preferred alternative is the environmentally preferred alternative. Implementing the preferred alternative would have the most beneficial impacts to the environment, as discussed in the environmental assessment, and therefore best promotes “...safe, healthful, productive, and esthetically and culturally pleasing surroundings...”; attainment of “...the widest range of beneficial uses of the environment without degradation, risk of health or safety, or other desirable and unintended consequences.”; preservation of “...important historical, cultural, and natural aspects of our national heritage and “...an environment that supports diversity and variety of individual choice”; and achieving “...a balance between population and resource use that would permit high standards of living and a wide sharing of life’s amenities.”

## WHY THE PREFERRED ALTERNATIVE WILL NOT HAVE A SIGNIFICANT EFFECT ON THE HUMAN ENVIRONMENT

The preferred alternative (alternative B as modified) would not have a significant impact on the natural and cultural environment, or the socioeconomic resources of the project area. As defined in 40 CFR §1508.27, significance is determined by examining the following ten criteria:

***Impacts that may be both beneficial and adverse:*** No impacts to Ecologically Critical Areas, Wild and Scenic Rivers, Other Unique Natural Areas; Geology and Soils; Air Quality; Water Resources, including Wetlands and Floodplains; Noise (Natural Soundscapes); Land Use; Prime and Unique Farmland; Hazardous and Toxic Materials/Waste; and Environmental Justice were identified for the preferred alternative.

The preferred alternative would protect visual resources and constitute a long-term, minor to moderate beneficial impact. Cave resources of the Minnekahta formation would benefit from preserving and protecting this special resource, a long-term, major beneficial impact. Short- and long-term, minor to major beneficial effects are anticipated for biological resources, including vegetation, wildlife, and threatened and endangered species. Including the potentially CWD-affected lands within the Wind Cave National Park boundary would allow the National Park Service to play a role in monitoring deer and elk, and implementing actions that would reduce, slow, and/or eliminate the spread of CWD, as is practicable and/or technically feasible based on the latest scientific evidence. The NPS would work cooperatively with federal, state, and local agencies, universities, and landowners in the area to improve our understanding of this disease. This would result in a long-term, minor beneficial impact on deer and elk exposure to CWD.

Cultural resources would benefit by NPS acquisition of the study area. Known cultural resources (including the second known buffalo jump in the national park system, the first of which is also located in Wind Cave National Park) would be preserved and protected. Federally mandated surveys would be conducted and any identified cultural resources would be protected, monitored, and recorded. The impacts of these changes would be beneficial, long term, and minor to major depending on the nature of the resource. Potential beneficial impacts on socioeconomics associated with alternative B are: long-term, negligible to minor effects related to increased NPS staff; short-term and major beneficial effects to landowners; indirect, short-term, and minor beneficial effects on local businesses from potential NPS expenditures; and short-term, minor beneficial effects related to fencing and powerline projects on the new NPS properties. With mitigation, acquisition of the study area by the National Park Service would constitute a minor, long-term, adverse impact on the local tax base.

***Degree of effect on public health or safety:*** Notable public health and safety issues related to this project were limited to the affects of wildland fires and fire management. Implementing the preferred alternative would allow for fire management on the entire study area.

Management of fire, especially on the Casey property, would help reduce the risk of a catastrophic wildfire in and around the park. This would have potential long-term beneficial effects on public safety in and around Wind Cave National Park. Acquisition of the “keyhole” lands would improve access for fire management. Including the Casey property within the boundary of Wind Cave National Park would allow firefighters to better control wildfires using natural topography, which is especially important as the largest wildfires experienced since the park’s creation have burned from within the park into the study area. The preferred alternative would have long-term beneficial effects for health and safety related to wildland fires.

***Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas:*** As described in the EA, effects on water resources, including wetlands and floodplains, prime and unique farmlands, wild and scenic rivers, and ecologically critical areas would be avoided.

After applying the Advisory Council on Historic Preservation’s criteria of adverse effects (36 CFR Part 800.5, *Assessment of Adverse Effects*), the National Park Service concluded that implementation of the preferred alternative would have *no adverse effect* on documented cultural sites (e.g., the buffalo jump on the Casey property) or potential historic resources (e.g., the homestead on the Casey property). Although inadvertent discoveries are unlikely (the National Park Service would be mandated to conduct cultural resource surveys, and expansion of the existing trail system into study area is the only proposed development that would likely result in such discoveries), in the event that human remains, funerary objects, sacred objects, or objects of cultural patrimony are discovered, provisions outlined in the Native American Graves and Repatriation Act (25 USC 3001) of 1990 would be followed.

The Black Hills and Wind Cave National Park are ethnographically important to the Lakota, Arapaho, and Cheyenne tribes. The strongest attachment is among the Lakota of the Pine Ridge Reservation. They see the area encompassing Buffalo Gap, Wind Cave, and Hot Springs as a single inseparable landscape that encompasses much of their cultural history. This area includes the study area. As the preferred alternative would seek to protect the historic, cultural, and ethnographic resources in the study area, it would actually benefit these resources in the short and long term.

Given that the Casey property constitutes a “keyhole” area in Wind Cave National Park, and that the property owners approached the National Park Service about selling their land, an

exceptional opportunity exists to create a much more manageable boundary for the park. This would have long-term beneficial effects on the operations of the Wind Cave National Park, especially related to boundary maintenance and fire management.

Finally, the Casey property and Pearson tract both share common boundaries with Wind Cave National Park. Subdivision and development are the likely eventual fate of these lands if not purchased by the National Park Service. The scenic quality of the park's expansive landscapes would be in jeopardy as a result. The preferred alternative seeks to protect scenic quality, and would have long-term beneficial effects on the visual resources of Wind Cave National Park.

***Degree to which effects on the quality of the human environment are likely to be highly controversial:*** There were no highly controversial effects on the quality of the human environment identified during either preparation of the EA or the public review period.

***Degree to which the possible effects on the quality of the human environment are highly uncertain or involve unique or unknown risks:*** CWD was identified on the Casey property in 1998 (see "Ungulate Exposure to Chronic Wasting Disease" in the "Affected Environment" section of the EA for a summary of the scientific evidence pertinent to this project). CWD is an issue to national wildlife managers and other interested publics, including the NPS. The disease is not unique to South Dakota, it has now been documented in Colorado, Wyoming, Nebraska, New Mexico, and Wisconsin. Although little is known about CWD (including its source and mode of transmission), the NPS would seek to monitor, research, and control the disease to the extent that it is feasible. This would have an indirect beneficial impact related to the boundary expansion, as these lands would be afforded protection that would likely not occur if the property was sold to another entity. This would be a moderate to major, long-term beneficial effect.

***Degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration:*** The preferred alternative neither establishes an NPS precedent for future actions with significant effects nor represents a decision in principle about a future consideration.

***Whether the action is related to other actions with individually insignificant but cumulatively significant impacts:*** Cumulative impacts were determined by combining the impacts of the preferred alternative—expanding the boundary of the park—with other past, present, and reasonably foreseeable future actions. Research into CWD and on-going efforts by The Nature Conservancy and Rocky Mountain Elk Foundation to preserve scenic vistas and important elk habitat surrounding Wind Cave National Park are past and present actions that have an overall beneficial cumulative impact when viewed in light of this boundary expansion.

The most apparent cumulative impact associated with the preferred alternative is that much of the land in Custer County is already owned by the federal government. Removing another 5,675 acres from the tax base could further impact municipal functions, including the struggling school systems. This would be mitigated through the Federal Lands Impact Aid and Payment in Lieu of Taxes. Even with this mitigation, long-term, negligible adverse cumulative impacts would be expected to occur.

***Degree to which the action may adversely affect districts, sites, highways, structures, or objects listed on National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources:*** No districts, sites, highways, structures, or objects that are listed on the National Register of Historic Places were identified within the study area during either preparation of the EA or the public review period. Federally mandated surveys would be conducted and any identified cultural resources, including archaeological resources, would be protected, recorded, and monitored. The impacts of these changes would be beneficial, long term, and minor to major depending on the nature of the resource.

Compliance with section 106 of the National Historic Preservation Act was completed through consultations with the staff of the South Dakota State Historic Preservation Office (SHPO) and their review of the EA. The SHPO concurred that the preferred alternative would have *no adverse effect* on any districts, sites, highways, structures, or objects eligible for or listed on the National Register of Historic Places (Jay Vogt, South Dakota State Historic Preservation Officer. Letter to Linda Stoll, Superintendent, Wind Cave National Park, June 26, 2002).

***Degree to which the action may adversely affect an endangered or threatened species or its critical habitat:*** Compliance with Section 7 of the Endangered Species Act was completed by submitting a request to the United States Fish and Wildlife Service. In a response dated March 20, 2002, the United States Fish and Wildlife Service stated that “The Service is not aware of any adverse effects that may result to listed or candidate species from the proposed expansion of the Park boundaries.”

The preferred alternative would not adversely affect threatened and endangered species, or their critical habitat. Habitat for mountain lion (state listed as threatened), bald eagle (state listed as endangered, federally listed as threatened), and possibly several species of rare plants would receive long-term protection from degradation under the preferred alternative.

Therefore, impacts to threatened, endangered, candidate, and/or or special concern species would be short and long term, and moderately beneficial. Acquiring these lands could also make the park eligible for reintroduction of the black-footed ferret and/or bighorn sheep. This could have further, short- and long-term, major beneficial effects on these species.

***Whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment:*** The preferred alternative violates no federal, state, or local law, including environmental protection laws.

## **IMPAIRMENT OF PARK RESOURCES OR VALUES**

In addition to reviewing the list of significance criteria, Wind Cave National Park determined that implementation of the preferred alternative would not constitute an impairment of the park's resources and values. This conclusion is based on a thorough analysis of the impacts described in the environmental assessment, agency and public comments received, and the professional judgment of the decision maker in accordance with the NPS *Management Policies, 2001*. Implementation of the preferred alternative would not result in major, adverse impacts to a resource or value whose conservation is (1) necessary to fulfill specific purposes identified in the establishing legislation or proclamation of Wind Cave National Park; (2) key to the natural or cultural integrity of the park; or (3) identified as a goal in the park's general management plan or other relevant NPS planning documents.

## **PUBLIC INVOLVEMENT**

The EA was made available for public review and comment during an extended 60-day period ending June 6, 2002. One-thousand, one-hundred and ninety (1,190) responses were received, 887 (75%) of which were form letters stating an individual's support for the boundary expansion at Wind Cave National Park. Counting all letters, form or non-form, as individual comments, 92% of the comments received were in favor of the boundary expansion, including those from the Department of Game, Fish, and Parks; the Governor's office; the Standing Rock Sioux Tribe; and the Cheyenne River Sioux Tribe. Counting form letters as a single comment, 242 comments were received, 208 (86%) of which were in favor of the boundary expansion.

Although the Department of Game, Fish, and Parks was supportive of the boundary expansion at Wind Cave National Park, the agency required two conditions: 1) that enabling legislation allow hunting access on all properties acquired now and in the future, or they would strongly oppose acquisition of the public school lands; and 2) that any acquisition of the Casey property include a plan to maintain the elk fences indefinitely where CWD existed, or at least until the disease is fully understood and management actions are agreed upon.

The Governor's office also offered some caveats to its support of the boundary expansion at Wind Cave National Park. These included: 1) no reduction of huntable lands (i.e., the public

school lands must be excluded from the proposed boundary expansion); 2) there must be no loss of tax revenue to either Fall River or Custer County<sup>1</sup>; 3) the park must execute a Memorandum of Understanding/Agreement with the appropriate state agencies to implement a plan to research, monitor, and protect the land potentially contaminated with CWD; and 4) the park must coordinate and cooperate with the Department of Game, Fish, and Parks to implement an elk management plan for the area surrounding Wind Cave National Park. The elk management plan would address CWD monitoring and elk herd population control in response to concerns about the potential for increased depredation on private lands.

The Cheyenne River Sioux Tribe expressed their support for the boundary expansion in a letter dated April 17, 2002. The letter recommended that a Traditional Cultural Property Survey be conducted in the study area to identify significant cultural resources that can be found. The Cheyenne River Sioux also requested that Wind Cave National Park solicit oral tradition information about the significance of Wind Cave from the surrounding tribes and incorporate that information into the park's public literature.

The Standing Rock Sioux Tribe expressed their support for the boundary expansion in a letter dated April 25, 2002. The letter stated that "The Standing Rock Sioux are fully supportive of expansion of the Wind Cave National Park because of the protection the National Park Service gives to cultural resources."

Letters from these parties, in addition to those from other agencies, have been reproduced and are provided as Attachment A of this Finding of No Significant Impact. Errata sheets have been prepared to address substantive comments and other comments the National Park Service felt should be addressed, including the provisions outlined in letters received from agencies and tribes. These are provided as Attachment B of this Finding of No Significant Impact.

## **CONCLUSION**

The preferred alternative does not constitute an action that normally requires preparation of an environmental impact statement (EIS). The preferred alternative will not have a significant effect on the human environment. Negative environmental impacts that could occur are minor or moderate in intensity. There are no significant impacts on public health, public safety, threatened or endangered species, sites or districts listed in or eligible for listing in the National Register of Historic Places, or other unique characteristics of the region. No highly uncertain or controversial impacts, unique or unknown risks, significant cumulative effects, or elements of precedence were identified. Implementation of the action will not violate any federal, state, or local environmental protection law.

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<sup>1</sup> A portion of the tax revenue from Custer County goes to help support the Hot Springs School District. Therefore, a loss of revenue to Custer County, the county that the study area is entirely located in, results in a loss of revenue to the Hot Springs School District.

Based on the foregoing, it has been determined that an EIS is not required for this project and thus will not be prepared.

**Recommended:**

/S/ June 26, 2002  
 Linda L. Stoll Date  
 Superintendent, Wind Cave National Park

**Approved:**

/S/ June 27, 2002  
William W. Schenk Date  
Director, Midwest Region

**ATTACHMENT A**

**AGENCY AND TRIBAL CONSULTATION LETTERS RECEIVED DURING THE PUBLIC  
COMMENT PERIOD**



Department of Education and Cultural Affairs

Cultural Heritage Center  
900 Governors Drive  
Pierre, SD 57501-2217  
(605) 773-3458 fax (605) 773-6041  
[www.sdhistory.org](http://www.sdhistory.org)

June 26, 2002

LINDA L STOLL  
SUPERINTENDENT  
WIND CAVE NATIONAL PARK  
RR 1, BOX 190  
HOT SPRINGS, SD 57747

**SECTION 106 PROJECT CONSULTATION - IDENTIFICATION/EVALUATION**

Location: Custer County  
(NPS)

Dear Ms. Stoll:

Thank you for the opportunity to comment on the above referenced projects pursuant to Section 106 of the National Historic Preservation Act of 1966 (as amended). The South Dakota SHPO has made the following determination regarding the likelihood that historic properties (whether recorded, unrecorded or undiscovered) exist within the project's area of potential effects (APE)

Based upon the information provided in the report, "Public Review Draft, Environmental Assessment for the Wind Cave National Park boundary Expansion Study, Wind Cave National Park, Hot Springs, South Dakota," prepared by Engineering-Environmental Management, Inc., received on April 8, 2002, the State Historic Preservation Officer has made the following determination. The proposed boundary expansion at Wind Cave National Park will not have an adverse effect.

Please note for future reference pursuant to 36 CFR Part 800.8(c) of the National Historic Preservation Act of (as amended), "An agency official may use the process and documentation required by the preparation of an EA/EIS or an EIS/ROD to comply with section 106 in lieu of the procedures set forth in 800.3 through 800.6 if the agency official has notified in advance the SHPO/THPO and the Council that it intends to do so and the following standards are met."

Should you require any additional information, please do not hesitate to contact Paige Hoskinson, Review & Compliance Coordinator, at (605) 773-6004. Your concern for the non-renewable cultural heritage of our state is appreciated.

Sincerely,

Jay D. Vogt  
State Historic Preservation Officer

Paige Hoskinson  
Review and Compliance Coordinator



**DEPARTMENT OF GAME, FISH AND PARKS**

Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3182

May 2, 2002

Linda Stoll, Superintendent  
Wind Cave National Park  
RR 1, Box 190  
Hot Springs, South Dakota 57747

Dear Linda,

Appropriate Game, Fish and Parks staff have reviewed the "Environmental Assessment For The Wind Cave National Park Boundary Expansion Study." As you may expect, the Department of Game Fish and Parks maintains a supporting interest in the expansion of Wind Cave National Park's boundaries based upon three related issues. Those issues are elk management, public access for hunting and Chronic Wasting Disease (CWD).

Elk management in the area immediately adjoining the current Wind Cave boundary has become a substantial issue with local private landowners. Accusations have been leveled that depredating elk move regularly in and out of Wind Cave. Some research completed in Wind Cave lends credibility to these accusations.

Private property depredation by public wildlife is a problem many states and National Parks are currently struggling with. Wildlife populations in National Parks cannot be controlled/managed through hunting while they reside within the boundaries and the normal management effort is directed at harvesting the animals while they are off the Park property. This has proven to be ineffective because through learned behavior these animals retreat to the safety of the Park as soon as any hunting pressure is applied.

Game Fish and Parks is currently attempting to reduce the elk depredation on private lands around Wind Cave by reducing the overall population of elk. However, due to elk movement in and out of the Park we are unable to adequately manage the elk herd population causing a significant portion of the problem.

Acquisition of the proposed lands will negatively affect our elk management efforts in the following manner: the addition of the "Casey" property will only further expand the area elk can move into without the threat of hunting pressure and push the "safety zone" closer to private lands producing alfalfa and row crops on the eastern side of Wind Cave. It is true that hunting access to the Casey property has been very limited in recent history, but this was directly related to the landowner's desires. Some elk harvest has occurred here and was very beneficial in reducing depredation.

The addition of the School and Public Lands on the east border would have a much higher impact on hunting access. Hunting activity directed at elk, deer and turkey has occurred at a much higher

Office of Secretary: 605/773-3387    Wildlife Division: 605/773-3381    Parks and Recreation Division: 605/773-3391    FAX: 605/773-6245  
TDD: 605/773-3485

level here than has been indicated in meetings and conference calls with Wind Cave staff. Access to the School and Public Lands must be made across two parcels of private property. Both of those landowners have granted access when approached and asked by sportsmen. We feel we can assure access to this property through Walk-in Area contracts or easements with the private owners. This property shares Boland Ridge with Wind Cave National Park. Boland Ridge has historically held large herds of elk, which will cross the Park boundary onto the School and Public Land where they have been harvested by hunters.

Chronic Wasting Disease (CWD) is also a concern because of the previous incident on the Casey property in which a captive herd of elk was diagnosed, quarantined, depopulated and buried on the property. The confined and over-populated elk herd currently within Wind Cave is viewed as highly susceptible to CWD. The crowded and confined elk closely mimic the captive facilities seen with CWD across the nation. Furthermore, the proximity to a known source and the lack of sufficient testing within the Park add to this concern.

Game Fish and Parks generally supports the acquisition proposal from the perspective it will insure valuable habitat for wildlife is not developed. Residential development is most likely the biggest threat to the wildlife in the Black Hills today and in the future.

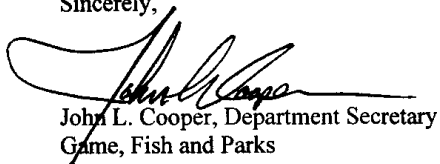
It is for the above reasons that Game Fish and Parks suggests the Wind Cave acquisitions take place with the following conditions:

- 1) The enabling legislation for the acquisition is written in a manner as to allow hunting access on all properties acquired now and in the future. Game Fish and Parks is willing to work closely with Wind Cave to manage elk populations within their boundaries on any new acquisitions. Special elk hunting units could be established to limit the number of hunters present yearly, yet still maintain a harvest to manage the herds to defined levels. An example of the benefits of this management direction is Custer State Park!
- 2) Any acquisition which includes the Casey property must include a plan to maintain the elk fences indefinitely where CWD existed, or at least until CWD is fully understood and management actions are agreed upon. The potential for spreading CWD must be verifiably zero before those internal fences come down.

In the event the enabling legislation is not written to accommodate hunting on the properties to be acquired, Game, Fish and Parks will strongly oppose the acquisition of the School and Public Lands. This is due to the hunting access and management opportunity it currently provides and will provide into the foreseeable future.

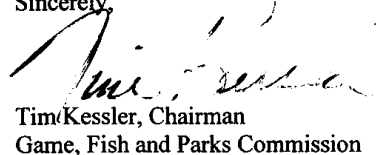
Thank you for the opportunity to comment on the proposed acquisition and we would be more than willing to discuss this matter further with you.

Sincerely,

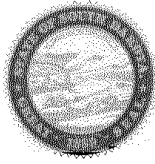


John L. Cooper, Department Secretary  
Game, Fish and Parks

Sincerely,



Tim Kessler, Chairman  
Game, Fish and Parks Commission



STATE OF SOUTH DAKOTA  
WILLIAM J. JANKLOW, GOVERNOR

June 7, 2002

Linda Stoll, Superintendent  
Wind Cave National Park  
RR 1, Box 190  
Hot Springs, South Dakota 57747

VIA FACSIMILE (605) 745-4207 AND U.S. MAIL

Dear Superintendent Stoll:

I appreciated receiving your letter of May 30, 2002, wherein Tom Farrell summarized Wind Cave National Park's proposal to expand the Park boundaries. I also understand that an Environmental Assessment, currently open for public comment, will close on June 7, 2002. Kindly include this letter in the public comments being received.

My staff and I have reviewed the background, proposed benefits, and possible local and statewide impacts of the proposed expansion. We have reviewed the property maps related to the proposed expansion. Moreover, my office has received numerous letters, e-mails, and telephone calls related to your proposal, almost all of which have voiced strong opposition.

Let me state that I do see some benefits from this proposed expansion:

1. The location of the Casey property does currently "keyhole" the existing Park acreage and the acquisition of this parcel would lend a more consolidated "natural" boundary to the Park.
2. My staff and I agree that the Chronic Wasting Disease (CWD) issue on the Casey property is a continuing concern, and this area should be properly monitored by utilizing the best available science, working with the Park Service; our state Department of Game, Fish and Parks; and our State Veterinarian.
3. I am supportive of the increased recreational and tourism opportunities that would be enhanced by the expansion. I appreciate the fact that you have gained the support of the Black Hills, Badlands and Lakes Association for this proposal.

EXECUTIVE OFFICE  
STATE CAPITOL  
500 EAST CAPITOL  
PIERRE, SOUTH DAKOTA  
57501-5070  
605-773-3212

Linda Stoll, Superintendent  
Page 2  
June 7, 2002

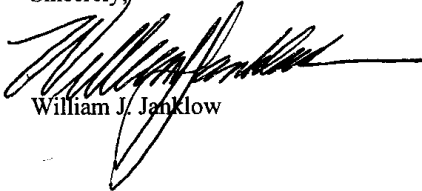
However, notwithstanding these possible benefits of the expansion, I do share the very valid concerns expressed to me by my staff and by the local citizens who have contacted me with respect to the possible negative impacts of the expansion.

Accordingly, the following issues must be satisfactorily addressed in order to obtain my support for your proposed expansion plans:

1. There must be no reduction of huntable lands that afford access to the public. Consequently, the 880 acres of School and Public Lands must be excluded from the proposed boundary expansion.
2. There must be no loss of tax revenue to either Fall River or Custer County regardless of what alternative is chosen. The National Park Service must find a way to supplement the current Payment in Lieu of Taxes (PILT) it pays to our counties so as to pay the same full-assessed property taxes as anyone else who may buy the Casey property.
3. The Park must execute a Memorandum of Understanding/Agreement with the appropriate State agencies to implement a plan related to research, monitoring, and protection of the location on the Casey property where Chronic Wasting Disease (CWD) was found in 1998.
4. The Park must coordinate and cooperate with the South Dakota Department of Game, Fish and Parks to implement an elk management plan for the Park and surrounding area in order to address CWD monitoring issues and elk herd population control related to local landowner concerns for the possible increased depredation on private lands.

I appreciate the opportunity to offer my comments to your proposal and to ensure that you understand my position on the issues summarized above. If you have any further questions or require clarification on anything contained in this letter, please feel free to contact my office.

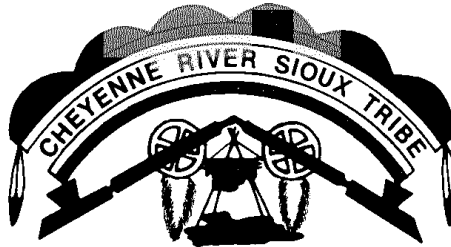
Sincerely,



William J. Janklow

Preservation Office  
(605) 964-7554

Fax Line  
(605) 964-7552



Archives  
(605) 964-7553

Fax Line  
(605) 964-7556

C.R.S.T. Preservation Office  
P. O. Box 590  
Eagle Butte, SD 57625

April 17, 2002

Linda L. Stoll, Superintendent  
Wind Cave National Park  
RR 1, Box 190  
Hot Springs, South Dakota 57747

RE: Boundary Study EA

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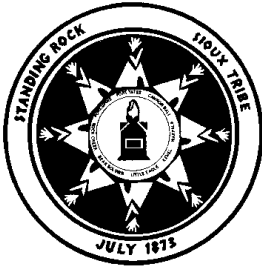
Thank you, for submitting a copy of the Boundary Study EA describing the increasing of the parks lands. After reviewing the document we are in favor of this project. On behalf of the Cheyenne River Sioux Tribe I do recommend that a Traditional Cultural Property (TCP) Survey of these additional lands be conducted in order to identify significant cultural resources that can be found in the proposed areas to be acquired. Furthermore I make the recommendation that your agency solicit oral tradition information about the significance of Wind Cave and incorporate that information into your parks public literature information.

The Cheyenne River Sioux Tribe looks forward to receiving a response that will allow our two entities to work together in mutual cooperation in order to bring out the special cultural past that this area of the Black Hills hold for our Lakota people.

Signed:

A handwritten signature in cursive script, reading "Sebastian (Bronco) LeBeau".

Sebastian (Bronco) LeBeau  
Preservation Officer  
Cheyenne River Sioux Tribe



**T** RIBAL HISTORIC PRESERVATION OFFICE  
**S** TANDING ROCK SIOUX TRIBE

P.O. Box D  
Fort Yates, N. D. 58538  
Tel: (701) 854-2120  
(701) 854-7265  
(701) 854-3476  
Fax: (701) 854-2138

Ms. Linda L. Stoll  
Superintendent  
Wind Cave National Park  
RR1, Box 190  
Hot Springs, SD 57747

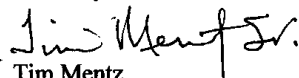
April 25, 2002

RE: *Environmental Assessment for the Wind Cave National Park Boundary  
Expansion Study.*

Dear Ms. Stoll:

Thank you for sending the above document to the Standing Rock THPO for review. As you reference in your cover letter of April 5, 2002, many places in the Black Hills, including Wind Cave, are sacred to the Sioux. The Standing Rock Sioux are fully supportive of expansion of Wind Cave National Park because of the protection the National Park Service gives to cultural resources.

Sincerely,

  
Tim Mentz  
Standing Rock THPO

cc. Charles W. Murphy, SRST

RECEIVED  
APR 25 2002  
WIND CAVE  
NATIONAL PARK

Tim Mentz, Sr. ♦ Tribal Historic Preservation Officer ♦ e-mail: tmentz@westriv.com  
Ione Gayton ♦ Tribal Historian ♦ e-mail: tokawin@westriv.com  
William Kurtz ♦ Tribal Archaeologist ♦ e-mail: wkurtz.srst.thpo@westriv.com

**ATTACHMENT B – WIND CAVE NATIONAL PARK BOUNDARY EXPANSION STUDY/  
ENVIRONMENTAL ASSESSMENT ERRATA SHEETS**

## ERRATA SHEETS

### BOUNDARY EXPANSION WIND CAVE NATIONAL PARK

The Environmental Assessment (EA) was available for public review and comment for an extended 60-day period from April 8, 2002 through June 6, 2002. The NPS extended the public review and comment period from 30 days to 60 in response to several requests submitted to the South Dakota Congressional delegates' offices. Public comments were screened to determine whether any new issues, reasonable alternatives, potential for significant impacts, or mitigation measures were suggested. Comments in favor of or against the proposed action or alternatives, or comments that only agree or disagree with NPS policy, are not considered substantive (i.e., they did not challenge the accuracy of the analysis, dispute information accuracy, suggest different viable alternatives, and/or provide new information that makes a change in the proposal). The comments received resulted in no text changes to the EA.

Comments received focused on the implications of the boundary expansion on the Fall River and Custer County tax base, Chronic Wasting Disease (CWD), and hunting access to state lands considered for inclusion within the boundary of Wind Cave National Park. While the majority of the comments received were not substantive, the National Park Service felt that some were and that these comments deserved clarification or additional explanation. However, these clarifications do not affect the analyses presented in the EA or alter the decision.

#### GENERAL

##### Comment(s):

A comment was received challenging the constitutionality of the boundary expansion of Wind Cave National Park. It stated that the U.S. Constitution tried to protect the states by granting Congress the power to buy land from states for certain constitutionally approved buildings such as “*forts, magazines, arsenals, dock yards and other needful buildings.*” *The comment also noted that a state legislature “must give consent to this loss of sovereignty before any such purchase be consummated,” and refers the reader to Article I, Section 8, Clause 17 of the Constitution.*

##### Response

It is not the intent of the National Park Service to seek exclusive jurisdiction on these lands, and therefore the above referenced legal provisions would not be invoked. Furthermore, the United States Federal Government is not subject to regulation by the states and is granted the authority to purchase lands with Congressional approval. Legislation that must be enacted to allow the boundary expansion to proceed is the Congressional approval required for this project.

Comment(s):

Several comments received indicated that there is a constituency not satisfied with the NPS policies on exotic plant and prairie dog management. Although the NPS is not required to respond to comments regarding policy (they are not considered substantive and are unrelated to the environmental assessment), Wind Cave National Park staff felt these issues should be addressed.

Response:

**Exotic Pest Management.** Wind Cave National Park contains nine of sixteen identified exemplary sites for vegetation, as identified during the Black Hills Vegetation Community Inventory finalized in 1999. The sites contain high-quality examples of various vegetation community types. Although exotic plants are locally common at scattered locations within the park, the overall condition of the vegetation is high. Of the park's 28,295 acres, it is estimated that 150 to 200 acres (less than 1%) contain non-native noxious plants, with most of those acres containing Canada thistle. We targeted 16 species of non-native plants for some level of control during 2001. We treated 56 acres by mowing; 5 acres were weed whipped and 9 acres were hand-pulled. We have 30 acres of biological control agents in the park.

The goal for 2002 is to target a total of 18 non-native species for some level of control. The southern Black Hills is a rich cave and karst (porous limestone with sinkholes) area. When developing a management program for controlling exotic plants we must consider that there are 21 known caves within the current boundaries of Wind Cave National Park. Therefore, the management of non-native species is based upon the geology of the area and whether it is susceptible to filtration of chemicals or if there are known caves in the area. If so, we err on the side of caution and avoid the use of chemicals. Caves are nonrenewable resources and thus require different thinking. The park also considers the diversity of native plant species that often occur in combination with many noxious plant species. The park is cautious regarding the use of herbicides because of the potential for impact on cave and karst resources, and the potential for impact on native plant species. Thus we do not currently use herbicides for exotic plant management.

**Prairie Dog Management:** Prairie dogs are essential to a mixed grass prairie environment and the management of our ecosystem. The populations of prairie dogs on public land actually aid the state with the U. S. Fish and Wildlife Service (USFWS) since those population figures are

considered in determining whether prairie dogs should be listed as threatened or endangered species. If USFWS were to take action to list the species, prairie dog management will change for us all. The park has mapped, using global positioning technology, 1,539 acres of prairie dog colonies. This is 5.44% of the total acreage of the park, which is 28,295 acres. The terrain alone of the proposed additional lands would prohibit large expansions of prairie dog colonies. However, the land does contain some suitable habitat for prairie dogs.

## HUNTING ACCESS TO STATE LANDS

### Comment(s):

*“The school land is one of the few places hunters can hunt when private land is unavailable. It should not even be considered being acquired by WICA.”*

*“Finally, School Land on the east side of the park is fine hunting land and used by many in the state. The private landowner in that area is very accommodating to the local hunters. It pains me to see accessible hunting land taken away.”*

*“My second concern is with the acquisition of the School & Public Lands portion of this expansion. ..This is a very important part of the states ability to allow public access in an ever shrinking environment. I have personally hunted on this property and believe that it should continue...as a place where the sportsmen of the state...experience the outdoors through hunting.”*

*“Hunting activity directed at elk, deer and turkey has occurred at a much higher level [on the School and Public Lands] than has been indicated in meetings and conference calls with Wind Cave Staff...In the event that the enabling legislation is not written to accommodate hunting on the properties acquired, [the South Dakota Department of] Game, Fish and Parks will strongly oppose the acquisition of the School and Public Lands.” (letter from Department of Game, Fish, and Parks)*

*“There must be no reduction of huntable lands that afford access to the public. Consequently, the 880 acres of School and Public Lands must be excluded from the proposed boundary expansion.” (letter from the Governor of South Dakota)*

### Response:

It is against the policy of Congress, the United States, and the NPS to permit hunting in national parks unless specifically legislated. Wind Cave National Park currently has no such legislation authorizing hunting, nor will it be pursued.

Nonetheless, in response to these concerns, the National Park Service has decided to choose a slightly modified version of alternative B as the new preferred alternative, **excluding** the public school lands in the expansion. The following were critical decision points in revising this alternative:

- The input of concerned citizens and state agencies, including the Governor's office, related to hunting access on the public school lands;
- Wildlife habitat is still protected as it is managed by the South Dakota Office of School and Public Lands;
- Eliminating these lands would not violate the Organic Act of 1916 (PL 64-235), as there would be no threat to the resources of Wind Cave National Park (see environmental consequences analysis for alternative A and C);
- The public school land is not developable land; and
- There would be a decrease in the impact that the boundary expansion would have on the area's tax base.

Although this modification has been made, the impacts analyses have already been performed for including and excluding the public school lands in the EA (alternative B, and alternatives A and C, respectively). Impacts of excluding the public school lands would not increase as a result of revising the preferred alternative. There would be no impairment of park resources or values under the revised alternative B (new preferred alternative). The revised alternative B better satisfies the environmentally preferred alternative criteria compared to alternative A (no-action) and alternative C (only includes Casey property).

As noted, the minor revision to alternative B does not change the environmentally preferred alternative, as identified in the EA. However, there is a change in the extent to which this alternative meets the criteria for the environmentally preferred alternative. Compared to the original alternative B, there is a small reduction in the range of beneficial uses of the environment; a somewhat reduced opportunity to preserve important cultural and natural aspects of our heritage; a small reduction in the balance between population and resource use; and a somewhat reduced ability to enhance the quality of renewable resources and recycle depletable resources. However, these are all negligible reductions.

## **ELK MANAGEMENT**

Few substantive comments were received regarding management of elk herds to monitor and research CWD, as well as to monitor and control depredation of adjacent property. However, both the South Dakota Department of Game, Fish, and Parks and the Governor submitted letters with caveats for elk management. They are reproduced here.

Comment(s):

*“The Park must execute a Memorandum of Understanding/Agreement with the appropriate State agencies to implement a plan related to research, monitoring, and protection of the location on the Casey property where Chronic Wasting Disease (CWD) was found in 1998.*

*The Park must coordinate and cooperate with the South Dakota Department of Game, Fish and Parks to implement an elk management plan for the Park and surrounding area in order to address CWD monitoring issues and elk herd population control related to local landowner concerns for the possible increased depredation on private lands.” (letter from the Governor of South Dakota)*

*“Any acquisition which includes the Casey property must include a plan to maintain the elk fences indefinitely where CWD existed, or at least until CWD is fully understood and management actions are agreed upon. The potential for spreading CWD must be verifiably zero before those internal fences come down.” (letter from Department of Game, Fish, and Parks)*

Response:

The NPS has already taken steps to address these issues by inviting the South Dakota Department of Game, Fish, and Parks to be a formal cooperator on CWD and elk management research in the southern Black Hills. On June 17, 2002, Wind Cave National Park and Department of Game, Fish, and Parks personnel met to discuss the management of lands potentially affected with CWD, and elk depredation. It was agreed that cooperative efforts must be implemented in order to monitor and research CWD and elk depredation related to the expanded boundary at Wind Cave National Park. This includes maintaining internal fences to keep the lands potentially affected with CWD segregated from those not considered potentially affected, a stance outlined in the environmental assessment.

Although the NPS has limited data on elk movement at the park, the Department of Game, Fish and Parks has little if any data on elk movement in the southern Black Hills. Cooperative elk herd studies to document movement, identify depredation issues that may arise, and determine management practices to limit the impacts of depredation were also discussed at this meeting. Although hunting would not be permitted on the lands proposed for inclusion in the boundary expansion, current hunting levels on these parcels is minimal. Therefore, despite the elimination of hunting on these lands, the numbers of elk in the area are expected to remain at current population levels, and depredation is not expected to increase.

## THREATENED AND ENDANGERED SPECIES

### Comment(s):

*“No black-footed ferret have appeared in the park since 1977 and you are now saying that there is a possibility they could return to these lands? This is speculation.”*

### Response:

The National Park Service felt this point deserved clarification. The EA states: “However, suitable black-footed ferret habitat is provided by the prairie dog towns of the park as well as the Casey property, and *reintroduction* of this species could occur on these lands (emphasis added).” It was not intended that the black-footed ferret may reappear in this area on its own, but rather that the U.S. Fish and Wildlife Service may find suitable habitat here for reintroduction of this endangered species, under its Endangered Species Recovery and Delisting Program. To lessen concerns about reintroductions and resulting restrictions on the use of private or public lands in the area, Congress added a provision for experimental populations under section 10(j) of the Endangered Species Act of 1973, as amended. An experimental population is a geographically described group of reintroduced plants or animals (in this case black-footed ferrets) that would be isolated from other existing populations of the species. All experimental populations are considered threatened regardless of the status of the actual status of the species. Currently, Wind Cave National Park is seeking research funding for studying the feasibility of reintroducing black-footed ferrets in the park considering the habitat available. Until a determination is made using this process (Section 10(j)), black-footed ferrets would not be reintroduced.

## SOCIOECONOMICS (TAXES)

Although many public comments were received regarding implications of the boundary expansion on the tax base of Custer and Fall River Counties, some met the criteria for being substantive. The response to this comment should serve as a response to all concerns raised about taxes, including the Fall River Board of County Commissioners, who on April 16, 2002 voted unanimously that the county withdraw its support for this boundary expansion, stating that “...the Congressional Delegation take a serious look at the reasonableness of the proposed purchase...and the loss of tax revenues to the Hot Springs School District.”

### Comment(s):

*“If the properties are sold for development the impact would be minor and short-term? The impact would be more than short-term as the tax base would increase for the long-term...The U.S. Government already owns too much property in Custer County and pay very little taxes.”*

*“There must be no loss of tax revenue to either Fall River or Custer County regardless of what alternative is chosen. The National Park Service must find a way to supplement the current Payment in Lieu of Taxes (PILT) it pays to our counties so as to pay the same full-assessed property taxes as anyone else who may buy the Casey property.” (letter from the Governor of South Dakota)*

**Response:**

In Fiscal Year 2001, Custer County received \$166,103 in Payments In Lieu of Taxes (PILT). In addition, Custer County received \$480,203 in revenues from the federal government which were generated from timber sales, grazing permits, gas/oil leases, etc. The National Park Service agrees that adverse impacts on the counties' tax base from boundary expansion could be long term. Such effects are expected to be negligible to minor, however, and would be offset by the PILT payments and revenue discussed above, increased expenditures by additional NPS staff, fence improvements on boundary expansion lands, and real estate payments to private landowners who decide to sell to the National Park Service (see pages 58 and 64 of the EA).

The impact analysis for socioeconomic considered many factors. These factors include taxes associated with potential residential development or commercial enterprises (e.g., a guest ranch or big game hunting operation that could occur in the study area, as well as increased revenue from construction projects. The local economy would benefit from expenditures associated with development of the study area, but only during construction and shortly thereafter (from “trickle down economics”). Therefore, the impact was not considered long term.